

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS, et al.,

Defendants

No. 41 CV 1395 (WCC)

In the Matter of the Application of HICKS
BROADCASTING OF INDIANA, LLC, et al.,
Applicant,

For the Determination of Reasonable License Fees.

CONSENT JUDGMENT

WHEREAS, the parties to the above-captioned proceeding having consented to have this Court (Conner, J.) hear and determine the application of applicants Hicks Broadcasting of Indiana, LLC, et al., for reasonable license fees for licenses from the American Society of Composers, Authors and Publishers ("ASCAP") for periods commencing January 1, 2001; and this Court having issued its Final Order in the above-captioned proceeding on October 14, 2004, approving the ASCAP 2004 Radio Station License Agreement ("ASCAP License Agreement"), covering the period January 1, 2001 through December 31, 2009 ("the License Period"); and

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6/5/09

WHEREAS, pursuant to Paragraph 7 of the Final Order this Court retained continuing jurisdiction for the purpose of enforcing the Final Order, as well as “the terms, conditions and obligations of the ASCAP License Agreement”; and

WHEREAS, on May 1, 2009, ASCAP filed a motion to enforce the Final Order against Midway Broadcasting Company (“Midway”); and

WHEREAS, Midway Broadcasting Company is the F.C.C. licensee, owner and operator of radio station WFLM-FM.

WHEREAS, WFLM-FM is a “Bound Station” as that term is used in the Final Order entered by this Court on October 14, 2004 and is bound to the terms and conditions of the ASCAP License Agreement; and

WHEREAS, as of this date, Midway owes ASCAP \$75,276.00 for WFLM-FM, representing unpaid license fees and late payment charges for periods through April 30, 2009, and

WHEREAS, ASCAP and Midway have agreed to the entry of this Consent Judgment;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Judgment is hereby entered against Midway Broadcasting Company in favor of ASCAP in the amount of \$67,000.00 (“Judgment Amount”).
2. Midway shall pay the Judgment Amount to ASCAP as follows:
 - a. Twenty Thousand Dollars (\$20,000.00) on or before May 29, 2009;
 - b. One Thousand Dollars on or before the 20th day of each month, beginning with June 20, 2009 through November 20, 2009.
 - c. The balance of the Judgment Amount plus accrued interest on or before December 20, 2009, provided, however, that should Midway comply with

the terms and conditions of this Consent Judgment and the ASCAP License Agreement, beginning on December 1, 2009, ASCAP and Midway will attempt to negotiate the payment of the remainder of the Settlement Amount and any other remaining sums owed to ASCAP. If by December 20, 2009, the parties are unable to agree to an alternate payment schedule, the balance then due shall be immediately payable pursuant to the terms of this Consent Judgment.

3. Failure by Midway to pay any portion of the Judgment Amount on a timely basis shall entitle ASCAP to have execution issue immediately on this Judgment and without further notice to collect any balance then due pursuant to this Judgment.

4. If Midway fails to pay to ASCAP when due current monthly license fees for WFLM-FM pursuant to the ASCAP License Agreement beginning with license fees owed for the month of May 2009 due on or before June 1, 2009, ASCAP shall give Midway written notice of such default; and Midway's failure to cure such default within ten business days from the date of ASCAP's notice shall entitle ASCAP to have execution issue immediately on this Judgment and without further notice to collect any balance then due pursuant to this Judgment. Midway will be responsible for all costs incurred by ASCAP in bank fees and penalties that result from the failure of a check made payable to ASCAP by Midway to clear for payment.

5. Interest on the Judgment Amount shall accrue at the rate of four percent (4%) per annum (compounded) from the date of entry and shall be calculated in accordance with 17 U.S.C. § 1961; provided, however, that if (i) the Judgment Amount is paid in full on or before December 20, 2009; and (ii) all monthly license fees for WFLM-FM under

the ASCAP License Agreement are paid in a timely fashion for the period May 2009 through December 2009, interest on the Judgment Amount shall be waived.

Dated: June 5, 2009
White Plains, New York

William C. Conner
Sr. United States District Judge

We consent to the entry of the foregoing Consent Judgment:

Dated: ~~5/27/09~~ 5/29/09

AMERICAN SOCIETY OF
COMPOSERS, AUTHORS AND
PUBLISHERS

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Dated: 5/27/09

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